

REMARKS

Reconsideration of the application in light of the foregoing amendments and the following remarks is respectfully requested.

Status of the Claims

Claims 4, 6-8, and 10-14 are pending. Claims 12 and 13 have been amended herein without prejudice. No new matter has been added.

Interview Summary

Applicant appreciatively thanks the Examiner for the courtesies extended in the telephonic interview conducted November 9, 2007 with Applicant's representative Erik Swanson (Reg. No. 40,833). The terms "modulation stages," "Internet," "frequency prognosis," and "automatic switchover" were discussed. Applicant pointed out that a person of ordinary skill in the art would be familiar with these terms such that the claimed invention could be practiced without undue experimentation. It is respectfully submitted that Applicant did not state that "it would have been obvious to apply thos[e] known concepts to applicant's claimed invention" or agree that the Examiner should read each of those terms as being obvious to apply to any invention or system in the same field, as stated in the Interview Summary provided in the Office Action dated November 15, 2007. It is respectfully submitted that Applicant's representative merely pointed out that a person of ordinary skill in the art would be familiar with the aforementioned terms such that disclosure provided is enabling.

Rejection under 35 U.S.C. §102(e) based on Kleider

Claims 4, 6-8 and 10-14 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,084,919 to Kleider et al. ("Kleider").

Kleider teaches a communication system that is allegedly capable of reducing the effect of interference on a data signal. See Kleider, col. 1, lines 48-50. The system monitors a spectral makeup within a frequency band of interest and varies a transmit signal parameter based on the detected spectral conditions. See Kleider, col. 2, lines 17-21. A transmit unit 12 encodes and modulates a raw data signal and then launches a modified signal onto a channel 14, which carries the signal to a receive unit 16. See Kleider, col. 4, lines 2-6. The receive unit 16 receives the data signal from the channel 14, demodulates and decodes the signal, and then delivers the demodulated/decoded signal to a data sink 18. See Kleider, col. 4, lines 5-8.

Independent claims 4, 8 and 14 recite "transmitting the corresponding parameter values to a broadcast transmitter, the transmitting performed automatically via an Internet." Independent claims 12 and 13 have now been amended so as to recite "a feedback is provided automatically via an Internet to the transmitter." Support for these amendments can be found, for example, in the Specification at page 3, paragraph [0013]. It is respectfully submitted that nowhere does Kleider teach transmitting parameter values to a transmitter automatically via an Internet, as recited in claims 4, 8 and 14 or providing a feedback automatically via an Internet to the transmitter, as recited in claims 12 and 13. In contrast, Kleider merely describes the existence of a wireless internet application for automobile collision avoidance systems. See Kleider, col. 1, lines 11-13. Nowhere does Kleider disclose transmitting parameter values or providing a feedback *automatically through an Internet to a transmitter*, as recited in claims 4, 8 and 12-14.

Independent claim 14 also recites “influencing the quantity of the modulation stages employed using the transmitted corresponding parameter values.” It is respectfully submitted that Kleider does not teach influencing the quantity of modulation stages employed, as recited in claim 14. In contrast, Kleider merely teaches that multi-mode modulator 24 can vary characteristics of a transmit signal such as the *type of modulation* applied to the signal. See Kleider, col. 4, lines 38-41. Contrary to the assertion in the Office Action at page 3 (citing Kleider, col. 4, lines 30-40), it is respectfully submitted that a quantity of modulation stages is not the same as the type of modulation. Nowhere does Kleider teach influencing the *quantity of modulation stages*, as recited in claim 14. The Office Action asserts that QAM modulation may have any number of different stages and “notes that the modulator and channel interleaver would function to vary the number of stages in order to increase transmission quality.” Office Action, pages 3-4. It is respectfully submitted that no support has been provided for this proposition. Indeed, Kleider nowhere teaches influencing the quantity of modulation stages using transmitted corresponding parameter values, as recited in claim 14. It is respectfully requested that the Examiner provide an affidavit and/or that the Examiner provide published information concerning this assertion. This is because the rejection of the claim 14 is apparently being based on assertions that draw on facts within the personal knowledge of the Examiner, since no support was provided for these otherwise conclusory and unsupported assertions. See M.P.E.P. § 2144.03.

Because Kleider fails to teach at least the above-recited features of independent claims 4, 8 and 12-14, Kleider cannot anticipate these claims or any of their dependent claims.

Reconsideration and withdrawal of the rejections of claims 4, 6-8, and 10-14 under 35 U.S.C. § 102(e) is respectfully requested.

